

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Robert D. Brooks,)	
)	C/A No. 6:18-632-MBS-KFM
Plaintiff,)	
)	
vs.)	
)	OPINION AND ORDER
South Carolina Department of Corrections;)	
Kershaw Correctional Institution; David)	
Dunlap, Warden of Kershaw Correctional)	
Institution; Edward Bittinger, Hearing)	
Officer of Kershaw Correctional)	
Institution; Ms. (F.N.U.) Falkenberry,)	
Offender Management System Analyst;)	
Donnie Stonebreaker, Associate Warden,)	
)	
Defendants.)	
_____)	

At the time of the underlying complaint, Plaintiff Robert D. Brooks was an inmate in custody of South Carolina Department of Corrections (SCDC) housed at Kershaw Correctional Institution (KCI) in Kershaw, South Carolina. Plaintiff, proceeding pro se and in forma pauperis, filed a complaint on March 7, 2018, alleging that he was denied due process at a disciplinary hearing. Thus, Plaintiff brings this action pursuant to 42 U.S.C. § 1983. Plaintiff also asserts state law claims for conspiracy and false arrest.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B). The Magistrate Judge determined that SCDC and KCI are not “persons” within the meaning of § 1983. Accordingly, the Magistrate Judge issued a Report and Recommendation on April 20, 2018, in which he recommended that the within action be summarily dismissed without prejudice and without issuance

and service of process as to these two Defendants. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Plaintiff’s complaint is summarily dismissed without prejudice and without issuance and service of process as to SCDC and KCI only. The matter is recommitted to the Magistrate Judge for additional pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

June 1, 2018